

# **Exhibit 15**

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

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5 U.S. COMMODITY FUTURES TRADING  
6 COMMISSION,

7 Plaintiff,

8 vs. 13 Civ 1174 (GBD)  
9 ECF Case

10  
11 WILLIAM BYRNES, CHRISTOPHER CURTIN,  
12 THE NEW YORK MERCANTILE EXCHANGE, INC.,  
13 and RON EIBSCHUTZ,  
14 Defendants.

15 -----  
16  
17 VIDEOTAPED DEPOSITION OF RON EIBSCHUTZ  
18  
19

20 Thursday, November 19, 2015  
21 New York, New York  
22

23 Reported by:

24 JOAN FERRARA, RPR, RMR, CRR

25 JOB NO. 100307

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November 19, 2015  
11:00 a.m.  
New York, New York

Videotaped Deposition of Ron Eibschutz,  
held at the offices of Skadden, Arps, Slate,  
Meagher & Flom, Four Times Square, New  
York, New York, Pursuant to Notice, before  
Joan Ferrara, a Registered Merit Reporter,  
Certified Realtime Reporter, and Notary  
Public of the State of New York.

1 R. Eibschutz

2 A Finance software, derivatives I  
3 think it was.

4 Q And you were only there for less  
5 than a year?

6 A Yep.

7 Q Why was that?

8 A It didn't work out.

9 Q And according to your resume, in  
10 August, you left Principia Partners in  
11 August of 2006, correct?

12 A I guess. I don't remember.  
13 According to my resume, yes.

14 Q Okay.

15 A Hold on. Let me see. I can't  
16 see where it is.

17 Q The first page.

18 A Okay.

19 Q Getting close to the top.

20 So after you left Principia,  
21 what did you do next?

22 A I went to Parity Energy.

23 Q And what was your position at  
24 Parity Energy?

25 A Broker.

1 R. Eibschutz

2 Q Now, you had not been a broker  
3 prior to your time at Parity, correct?

4 A Correct.

5 Q So how did you get a job at  
6 Parity as a broker?

7 A I have no idea. I really have  
8 no idea.

9 Q You testified --

10 A It sounds -- I don't really  
11 remember, but -- I don't know. I met them  
12 for drinks and they liked me, and there you  
13 go, I guess. I don't really know. Did I  
14 say something else another time or  
15 something --

16 MR. SCHECHTMAN: You're doing  
17 fine.

18 A No. I feel like you're alluding  
19 to something.

20 Q You did testify previously that  
21 when you started at Parity, for the first  
22 couple of days you did nothing, and then --

23 A Well, brokers do a lot of  
24 nothing. They do a lot of nothing all day  
25 long.

1 R. Eibschutz

2 I went to his house and I think his wife  
3 was there, I met her briefly.

4 Q Did you ever go on any trips or  
5 junkets with Byrnes or Curtin?

6 A Like out of New York City?

7 Q Yeah.

8 A No.

9 Q At some point in time, did you  
10 consider Chris Curtin your friend?

11 A I don't know. I guess. I mean  
12 I don't know. I don't understand the point  
13 of the question, but --

14 Q Well, forget about the point of  
15 the question. At some point in time did  
16 you consider him a friend?

17 A I don't know. I guess. I don't  
18 know. I mean it was a work relationship.  
19 I mean I wasn't talking about my, you  
20 know -- I don't know. I guess. I don't  
21 know. I didn't really look at it that way.  
22 I don't know.

23 I know it sounds odd to you for  
24 some reason. I mean the only friend, the  
25 only friend that I had really who I saw

1 R. Eibschutz

2 outside of work, like outside of work, was  
3 Will.

4 MR. SCHECHTMAN: Who was on the  
5 desk with him.

6 A He was on the desk with me.

7 MR. HERSKOVITS: Could we get a  
8 last name?

9 THE WITNESS: Will Brittain.

10 BY MR. HOGAN:

11 Q At some point in time, did you  
12 consider William Byrnes a friend?

13 A I guess. Yeah, I guess so. I  
14 mean I don't -- it wasn't -- you know, I  
15 think there was like a fine line with it,  
16 but I guess you could say he was a friend  
17 of mine.

18 We had a relationship in the  
19 sense where we would joke around and kid  
20 around and say a lot of stupid dumb boy's  
21 locker room stupid crap, but it wasn't  
22 like -- I don't know -- it wasn't like  
23 someone I would talk about with like my  
24 kids.

25 Does that make sense at all?

1 R. Eibschutz

2 So when you say that there was a  
3 report available, that was a report that  
4 was published by NYMEX, correct?

5 A Correct. Sorry to interrupt, if  
6 it was done on the floor, it was published  
7 I think -- I don't know, but I think that  
8 would be immediately -- right, it would go  
9 up and everyone would see it. Okay.

10 Q So focusing on the information  
11 that was available about transactions  
12 executed through ClearPort --

13 A Okay.

14 Q -- there was a report that would  
15 come out every day?

16 A Yes, yeah.

17 Q And I think you said that the  
18 particular identity of parties to trading  
19 activity was not disclosed in that report?

20 A That is correct.

21 Q With respect to any particular  
22 product, were the specific trades listed or  
23 was an aggregation of trading listed?

24 A Each and every trade was listed,  
25 is my recollection.



1 R. Eibschutz

2 there.

3 We all sit with each other. We  
4 can listen to each other's phone calls.  
5 People, you know, people hear. I mean, I  
6 can't really hear out of my left ear that  
7 well, but I didn't hear everything well all  
8 the time, but that's a different issue.

9 Q So why did you begin asking for  
10 non-public information from people on the  
11 ClearPort desk?

12 A We were asking for cold calling  
13 purposes.

14 Q Can you explain that in a lot of  
15 detail?

16 Let me stop for a second.  
17 Again, put yourself in the shoes --

18 A I'm not being light. I know  
19 it's serious.

20 Q Put yourself in the shoes of  
21 somebody who doesn't know what a broker  
22 does for a living and explain what you were  
23 going to use this information for.

24 A We make a phone call to the, to  
25 the prospective company. We tell them what

1 R. Eibschutz

2 we do and what we broker. We go, can I  
3 have your IM and show you markets.

4 Q Okay.

5 A And it's basically you're  
6 prospecting to try and get a customer.

7 Q And how would getting non-public  
8 information from people on the ClearPort  
9 desk help you do that?

10 A The slight advantage you might  
11 have is if you don't, if you don't know who  
12 is doing that, you know, who is trading,  
13 for example, but it doesn't -- knowing who  
14 did it doesn't really promote your book.  
15 You don't know if they're going to give you  
16 business. You don't know if they're not.  
17 A lot of times they're like, oh, here is my  
18 IM, I'm not giving you any business. Here  
19 is my IM, you've got nothing. You know,  
20 show me what you got. You know, it's like  
21 do you want to meet for a drink. It's all  
22 like -- it's all just networking with them  
23 and then just pounding the phones with them  
24 and -- I don't -- okay.

25 Q I'm going to give this a try.

1 R. Eibschutz

2 trader.

3 A Okay.

4 Q What do you do now that you know  
5 XYZ trader?

6 A Either myself or someone else on  
7 the desk would cold call that customer.

8 Q You would call XYZ trader?

9 A Correct.

10 Q Why would you call XYZ trader,  
11 having found out that they just executed a  
12 trade through ClearPort?

13 A Because it's really dumb. But  
14 besides that, trying to build your book.  
15 But we've learned what you learn in the  
16 energy business, or at least in options,  
17 they all talk to each other. So everyone  
18 knows who is trading what throughout the  
19 whole day, because everyone talks about it.  
20 The traders are friends with each other.  
21 They all go out with each other. They let  
22 them know what they're doing.

23 This is not anything that people  
24 don't know at the end of every single day.  
25 And I'm sure even during the day, they know

1 R. Eibschutz

2 those markets, and it created some  
3 animosity, and people would be like  
4 shouting at each other, why don't you have  
5 a relationship with your customer, you  
6 know, things like that.

7 Q Okay. I think I understand.

8 A I mean it became like an  
9 obsession for some people to know what was  
10 going on. Like always asking, find out the  
11 information, find out, find out, find out.

12 Q Those were your co-workers at  
13 Parity?

14 A Co-workers and bosses. It got  
15 upsetting after a while and I was like, you  
16 know, you've got to -- you know, but I did  
17 it.

18 Q And is that your co-workers at  
19 Parity and Poten?

20 A Correct, and bosses, too.

21 Q Let's just stop for a second.

22 At some point you left your  
23 employment at Parity, correct?

24 A Uh-huh.

25 Q And that was in the Spring of

1 R. Eibschutz

2 2008?

3 A Parity, no -- '10, '10.

4 Q Spring of 2010?

5 A That's the one that I got right  
6 today.

7 Q Okay.

8 Why did you leave Parity and go  
9 to Poten?

10 A To be honest?

11 Q Yeah, that's important today.

12 A I didn't mean it as a joke.  
13 Sometimes I say things that just come out  
14 that way, so I apologize.

15 Because the truth was, is  
16 because Lou Pellathy is a scumbag.

17 Q Okay.

18 A And Will was encouraging me to  
19 leave as well.

20 Q If I understand, Poten was a new  
21 brokerage venture at that time, correct?

22 A Yes, correct.

23 Q And who did you interview  
24 with --

25 MR. SCHECHTMAN: I should just

1 R. Eibschutz

2 anything with this information other than  
3 cold calling prospective clients?

4 A No. I just called prospective  
5 clients, yeah, unless I accidentally said I  
6 knew about something, that someone did  
7 something -- but otherwise, yeah, the sole  
8 purpose was cold calling, and then there  
9 would be big fights on the desks on why  
10 customers traded away.

11 Q Could you explain that last part  
12 for just a little bit? What were the big  
13 fights on the desk about?

14 A Sometimes you just, because  
15 people just get charged up for some reason,  
16 like just -- I guess it's like the  
17 testosterone kind of takes over sometimes  
18 and someone can have a particularly good  
19 relationship with one of the customers,  
20 then it would just turn into some kind of  
21 argument or something, or someone was like  
22 I want to take that customer or something  
23 like that.

24 Q Okay.

25 A I mean that's just an example.

1 R. Eibschutz

2 I mean it just turned into a lot of  
3 animosity.

4 Q Okay.

5 You're going to have to explain  
6 that just a bit. When you say it turned  
7 into animosity?

8 A Like people just got angry and  
9 then they get over it.

10 Q Why would there be animosity  
11 within say Poten about the information you  
12 were learning from Mr. Byrnes?

13 A Oh, at Poten you mean? At  
14 Parity, there was a lot of animosity. And  
15 at Poten, there was, too.

16 Because if there was a specific  
17 customer who someone said they were, you  
18 know, able to get business from or  
19 something, then it was, they would get  
20 really mad, you know. It ended up just  
21 kind of being one or two of the guys there  
22 that ended up being like arguments with.

23 Q Let me try and explain it this  
24 way, see if I can --

25 A I'm sorry.

1 R. Eibschutz

2 Q What you're saying is that  
3 occasionally you would learn that XYZ  
4 trading company did a trade, right?

5 A Right.

6 Q And what you're saying is that  
7 other people with whom you were working  
8 believed they had a relationship with XYZ  
9 trading company, right?

10 A Correct.

11 Q And either they were unhappy  
12 that XYZ trading company hadn't used Poten  
13 or the broker, right?

14 A Right.

15 Q Or they were accused of not  
16 doing a very good job by other people,  
17 because XYZ company hadn't used Poten as  
18 the broker?

19 A Yes.

20 Q Got it.

21 A Yeah, that's it. That's exactly  
22 it.

23 Q The confidential information  
24 that you were learning, did that include  
25 a -- we'll start again.



1 R. Eibschutz

2 The confidential information  
3 that you were learning, did that tell you  
4 what a market participant's overall  
5 position was?

6 A No. No way in hell.

7 Q Can you explain that a bit?

8 A I mean there is no way to know  
9 unless you knew every single trade that  
10 they've ever done, and they could have a  
11 trade from 5 years ago, 3 years ago, 2  
12 years ago -- who knows. There's no way.

13 Q Just for the benefit of those  
14 who may not understand it, when I say  
15 position, you understand that to mean  
16 aggregating all of their trades?

17 A Yeah.

18 Q Whether they're long or short?

19 A Yeah.

20 Q In a particular --

21 A I could guess and be like, yeah,  
22 they're definitely so long. But how do I  
23 know? Sometimes trader will be like I'm  
24 really long this position when you meet  
25 them out, they'll be like I'm so long this,

1 R. Eibschutz

2 A Who, me?

3 Q Yeah.

4 A For me to go to work as a  
5 broker. I looked at it like that. I  
6 didn't look at it in any other way. What I  
7 learned from it was when I got a new job is  
8 to hire a lawyer to read a legal document.

9 Q So --

10 A And this is not, you know, this  
11 is not something that you would ever look  
12 at during at least, I don't know in the  
13 legal profession, but I don't know anyone  
14 who circles back to stuff that, unless  
15 there's an issue with their work contract.

16 Q Well, when you were working with  
17 Parity, did you understand that it was  
18 important for you to maintain information  
19 about Parity's customers in confidence?

20 A About Parity's customers?

21 Q Uh-huh.

22 A I guess.

23 Q And when you went to work for  
24 Poten in 2010, you talked about it a minute  
25 ago, but your signature on this agreement

1 R. Eibschutz

2 with Parity became an issue, correct?

3 A Oh, I see where you're going  
4 with it. I get it. Can I walk through it?

5 Q The answer is yes, right?

6 A I'll tell you everything.

7 Q Tell me what the issue was.

8 A I'll just tell you everything.  
9 The issue was that they didn't -- I signed  
10 a document where I wasn't allowed to speak  
11 to any of my customers for like 3 -- I  
12 think it was like some crazy amount of  
13 time. Industry standard was they pay you  
14 for 3 months and then you go back to work.

15 We went over to Poten and they  
16 hired lawyers and told us to start working.  
17 That's what it was, so.

18 Q So you understood at the  
19 beginning of your employment with Poten  
20 that there was some issue with Parity in  
21 the enforcement of this agreement?

22 A I guess, yeah. I mean, but  
23 Poten told us to go to work, and we weren't  
24 getting paid. So if we were getting paid,  
25 then -- I don't know what the legal

1 R. Eibschutz

2 Everyone else is working and living their  
3 lives.

4 Q As far as you can remember, did  
5 Mr. Byrnes or Mr. Curtin -- strike that  
6 question. Strike that question.

7 Based on what you just said,  
8 you're no longer working at Poten, is that  
9 correct?

10 A No.

11 Q When did you leave Poten?

12 A I -- they terminated, they  
13 terminated the whole desk. I have to talk  
14 about myself, no one else, right?

15 MR. SCHECHTMAN: That's right.

16 A They terminated the whole desk  
17 in March of 2013 right after the first  
18 report came out from the CFTC.

19 Q When you say they terminated the  
20 whole desk, they didn't stop operations,  
21 but they actually severed employment?

22 A They stopped operations in  
23 energy trading and they fired everyone, and  
24 everyone got a job except -- actually,  
25 yeah -- and then they all went to go to a

1 R. Eibschutz

2 testimony, yes -- I mean from the tapes and  
3 reading this, yes.

4 Q Now, you said you may have had,  
5 it was possible that you had information  
6 about price at the time you made this call,  
7 correct?

8 MR. JACKOWSKI: Object to the  
9 form.

10 A I don't know. I don't know. I  
11 don't remember. I don't remember, I mean.  
12 It was 6, 7 years ago. I don't know.

13 Q Is there any reason you would  
14 ask about the price if your firm already  
15 had that information at the time you were  
16 making the request?

17 A You know what, now that I'm  
18 thinking about it now, and I'm just going  
19 to think out loud, I might be wrong, but it  
20 seems to me that if the information was  
21 published the next day and I'm asking the  
22 next day, that information was already  
23 there when I asked the question.

24 So I asked a question post  
25 trading day. So I ask a question, for

1 R. Eibschutz

2 example, today, on what happened yesterday.  
3 That information is public already today,  
4 right.

5 So the information that I'm  
6 receiving on something that is not within  
7 the day is already out there, except for  
8 the counter-party and the broker.

9 Q It's your belief that the  
10 information --

11 A It's published information. And  
12 now you know in 15 minutes, you know when a  
13 trade occurs. It's all live action. You  
14 see it. It's got to post.

15 Q I'm just trying to make sure I  
16 can confirm your understanding of what was  
17 public.

18 It was your understanding that  
19 in this time period, the day after a  
20 transaction, the volume of each transaction  
21 was published, is that your understanding?

22 MR. JACKOWSKI: Object to the  
23 form.

24 THE WITNESS: Am I allowed to  
25 answer the question?